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C O N F I D E N T I A L SECTION 01 OF 03 BUENOS AIRES 001680

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TAGS: [EFIN](#) [ECON](#) [PREL](#) [PGOV](#) [AR](#)

SUBJECT: ARGENTINE PRESIDENT SIGNS PENSION NATIONALIZATION
LAW; GOA DEMONSTRATES CONTINUING DOMINANCE OVER POLITICAL
SYSTEM

REF: A. BUENOS AIRES 1643

[1](#)B. BUENOS AIRES 1667

[1](#)C. BUENOS AIRES 1583 AND PREVIOUS

Classified By: Ambassador E. Anthony Wayne for Reasons 1.4 (b,d)

Summary

[1](#)1. (C) Argentine President Cristina Fernandez de Kirchner signed into law on December 4 her audacious plan to nationalize the country's private pension system. The law officially entered into force December 9. Contrary to early expectations that the GoA would have a tough fight getting it through Congress, the Argentine Senate passed the law November 20 by a wide margin, with no amendments. This clear political win, along with other recent legislative successes, indicates that the Kirchners' political strength -- if not their popularity -- has recovered from their legislative defeat in July that ended the farm conflict. GoA officials plan a rapid transfer of assets from the pension funds (AFJPs) to Argentina's Social Security Agency (ANSES). As evidenced by the President's November 25 announcement of a US\$ 21 billion public works plan (Ref A) and December 4 announcement of a further US\$ 3.9 billion stimulus plan (Ref B), the GoA also has plans for the use of the AFJPs' \$25-30 billion in assets and annual cash flow. Septel reports on continuing concerns over GoA fiscal solvency and market unrest. End Summary.

Pension Nationalization a Done Deal

[1](#)2. (SBU) Although local press originally speculated that President Cristina Fernandez de Kirchner (CFK) would sign the law into force shortly following the Senate's November 20 passage, for unclear reasons the President waited until December 4 to sign the law. It was published in the Official Gazette on December 9. Ordinarily, Argentine laws enter into force eight days after being published in the Official Gazette. However, Article 21 of this law states that it enters into force immediately upon publication. The GoA has simultaneously issued a limited set of essential "implementing regulations," pertaining to the transfer of AFJP assets to ANSES, maintaining continuity in payments of the AFJPs' existing pension claims, and immediately

redirecting all pension contributions (11% of employee salaries) from the AFJPs to ANSES. The GoA has 60 days to issue more complete regulations.

As Expected, Senate Easily Approved Nationalization law

¶3. (SBU) The Argentine Senate passed the GoA's private pension nationalization law November 20 by a wide margin of 46 votes in favor to 18 against, thus ending the country's 14-year experiment with private pension funds. There had been early speculation after CFK announced the nationalization October 21 that the GoA might have difficulty getting the legislation through Congress, particularly in the Senate (see Ref C). According to local media, however, the GoA spent the month before the vote promising increased infrastructure spending to Governors of provinces whose Senators' support was seen as essential. By the time the decision took place on November 20, the GoA had easily garnered sufficient votes.

¶4. (SBU) The Senate accepted the minor amendments added during the earlier debate in the lower house. As reported Ref C, the Chamber of Deputies' main amendments specify that all pension assets must only be used to pay retirees, prohibit foreign investments, enhance Congressional oversight, and establish an advisory board comprised of the GoA, unions, and the private sector to monitor system resources.

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Senate Vote Shows that GoA is Off the Ropes

¶5. (C) CFK's stunning Senate defeat in mid-July, when Vice President Julio Cobos cast the tie-breaking vote against the GoA's plan to raise export taxes, left her and her administration looking weak and in disarray. Some observers predicted that the Senate's rejection of the GoA export tax bill would usher in an era in which the administration would have to collaborate in a more democratic fashion with the legislature to govern the country. However, this appears to have been wishful thinking, as the GoA maintains its solid majority in both houses and has recently enjoyed one legislative success after another.

¶6. (C) In addition to the November 20 passage of the pension law, over the last two months the GoA has had little difficulty in getting Congress to pass several budget bills, which included the controversial extension of the so-called superpowers clause (allowing the GoA to reallocate expenditures without Congressional authorization), and changes to the Charters of the Argentine Central Bank (BCRA) and state-owned Banco de la Nacion (authorizing both institutions to provide significant additional financing to the GoA). Furthermore, on December 10 the Senate approved the one-year extension of the Emergency Economic Law, which gives CFK broad legal authority to change utility tariffs, renegotiate government contracts, and legislate by decree, as well as the one-year extension of the Financial Transaction Tax (FTT). (Comment: Although the FTT only contributes about 7% of total tax revenue, the GoA highly values it as an essential source of reliable financing, particularly since the GoA keeps 70% of FTT revenues and only shares 30% with the Provinces, a lower percentage than for most other taxes.) The Senate is also expected to pass the law authorizing the expropriation of Spanish-owned Aerolineas Argentinas this week, although the difference in that case is that the action enjoys broad support, even among opposition Senators.

GoA and ANSES Advance Plans for AFJP assets

17. (C) AFJP contacts tell Post that the GoA is hoping to maintain a low profile on the publication of the law in the official gazette and the expedited transfer of AFJP assets to ANSES in order to minimize judicial injunctions filed by AFJP contributors (which have already started). Therefore, the AFJPs expect to receive orders from ANSES to begin the legal transfer of assets this week. ANSES is also planning to take on key AFJP employees to help manage the assets after they are transferred. However, executives from MetLife and HSBC's AFJP (in which New York Life holds a 40% minority share) tell Post that they have agreed to ANSES requests to allow these employees to continue working at their current locations, using HSBC/Met offices, computers, and telephones, for an undefined transition period. (Comment: Neither MET nor HSBC/NYLife have had any contact with GoA officials regarding compensation for their expropriated business operations.)

18. (C) As reported Refs A and B, CFK announced two significant economic stimulus packages in as many weeks. On November 25, she sent Congress a draft law providing tax incentives for job creation and repatriation of capital, and also announced a US\$ 21 billion public works program. On December 4, she announced a further US\$ 3.9 billion in subsidized credits to businesses and consumers, in addition to five percentage point cuts in export taxes on corn and wheat. Both the direct expenditures and tax cuts have fiscal costs, and the President made it clear during her December 4 speech that the GoA will be taking advantage of AFJP resources to fund these initiatives. Septel reports on private sector concerns over whether the GoA has the financial capability to cover both future debt obligations and increased fiscal stimulus in the face of the economic slowdown and ahead of the 2009 mid-term elections.

Comment

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19. (C) The political winds have shifted, at least for the time being. The GoA pushed through the pension nationalization bill, budget bills, emergency economic law, and FTT over the harsh criticism and strenuous resistance of opposition politicians, who are now the ones looking powerless. It now appears that the vote in mid-July that ended the farm crisis was an aberration, the exception that proved the rule. Farming groups were well-organized and supported by the public and in the streets, proving to be too much, even for the Kirchners. The farm crisis clearly damaged both Cristina and Nestor's popularity with the Argentine public, with CFK's positive image falling from 56% in January to 28% in November, and Nestor Kirchner's positive image declining from 64% to 30% during the same period (according to Poliaquia Consultores). While both the broader economic deceleration and panic that ensued with the announcement of the AFJP nationalization have also contributed to the Kirchner's currently low popularity, the low positive ratings are virtually unchanged since July. Nevertheless, this decline in popularity does not seem to have inhibited the Kirchners' ability to govern the country. On the contrary, the relatively smooth passage of the pension law, which essentially legalized the outright expropriation of private assets valued at almost 10% of GDP, shows that the Kirchners still control the levers of political power in Argentina.
WAYNE